## U. S. District Court CM/ECF Policies and Procedures Manual for the Southern District of Indiana

(Updated August 9, 2004)

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#### Introduction

The United States District Court for the Southern District of Indiana implemented an Electronic Case Management/Filing System on July 1, 2002. The Court's system, CM/ECF, permits attorneys appearing in all civil cases filed on or after July 1, 2002, to file documents with the Court via the Internet using the ECF (Electronic Case Filing) portion of the system. Attorneys, parties, and *pro se* litigants may view dockets and electronically filed documents via the Internet using the PACER (Public Access to Court Electronic Records) portion of the system.

#### 1. Authorization for Electronic Filing

Local Rule 5.4 authorizes electronic filing in conjunction with Federal Rule of Civil Procedure 5(e). The following policies and procedures govern electronic filing in this district unless, due to circumstances in a particular case, a judicial officer determines that these policies and procedures should be modified.

#### 2. Definitions and Instructions

The following definitions and instructions shall apply to these Electronic Case Filing Administrative Policies and Procedures:

- 2.1 The term "document" shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the Court.
- 2.2 The term "attorney" shall include counsel of record.
- 2.3 All hours stated shall be the Local Time of the division to which the case has been assigned (Local Rule 5.8).
- 2.4 The term "Notice of Electronic Filing" is used to refer to the email notice that is automatically generated by the Electronic Filing System at the time a document is filed by an attorney, or an order is entered by the Court. The Notice of Electronic Filing (NEF) will set forth the time of filing or issuance, the type of document, the text of the docket entry, the name of the attorney(s) receiving the notice, and an electronic link (hyperlink) to the document, which allows recipients to retrieve the document automatically.
- 2.5 The term "PDF" is used to refer to a document that exists in Portable Document Format. A document file created with a word processor, or a paper document which has been scanned, must first be converted to portable document format before it can be electronically filed with the Court. Converted files contain the extension ".pdf".

## 3. Application of Rules and Orders

Unless modified by order of the Court, all Federal Rules of Civil Procedure and Local Rules shall continue to apply to cases maintained in the Court's Case Management/Electronic Case Filing System.

## 4. Cases Subject to Electronic Case Filing

Electronic filing by attorneys is required for eligible documents filed in all civil cases initiated with the Court on or after July 1, 2002. Attorneys may register for an ECF login and password with which to <u>file</u> documents electronically by visiting the Court's website at <a href="https://www.insd.uscourts.gov">www.insd.uscourts.gov</a> or by contacting the court's CM/ECF Administrator.

Electronic Case Filing Administrator: Wendy Carpentier

(317) 229-3718

wendy\_carpentier@insd.uscourts.gov

Attorneys, parties, and *pro se* litigants may <u>view</u> dockets and electronically filed documents via the Internet through the use of the Court's PACER (Public Access to Court Electronic Records) system. A login and password may be obtained by visiting the PACER website at <a href="https://www.pacer.psc.uscourts.gov">www.pacer.psc.uscourts.gov</a> or contacting the PACER Service Center at 1 (800) 676-6856.

Most civil cases filed before July 1, 2002, and all criminal cases are maintained in the Court's Judicial Automated Management System (JAMS) and are not eligible for electronic filing.

## 5. System Requirements

The following hardware and software are needed to electronically file documents and receive electronic notice of case activity via the Electronic Case Filing system:

- a. A computer running a Windows or a Macintosh operating system;
- b. Software used to create PDF documents from a word processing application, such as Adobe Acrobat (links to free PDF creators can be found on the Court's website at <a href="https://www.insd.uscourts.gov">www.insd.uscourts.gov</a>);
- c. A PDF viewer, such as Adobe Acrobat Reader® (free download available at www.adobe.com);
- d. A PDF-compatible word processor like Macintosh or Windows-based versions of WordPerfect® or Microsoft Word®;
- e. Netscape® browser version 4.6x or 4.7x or Internet Explorer® Version 5.5 (128-bit encryption is strongly recommended);
- f. Internet access and an email address;

- g. Access to a scanner may be necessary for exhibits to be scanned into PDF pursuant to Local Rule 5.10; and
- h. The filing attorney must have an ECF login and password assigned by the Clerk with which to access the Court's Electronic Case Filing system.

NOTE: To <u>view</u> dockets and electronically filed documents through the Court's PACER system, users must access the system through a PACER login and password. Attorneys and parties may register for a PACER account at <u>www.pacer.psc.uscourts.gov</u> or 1 (800) 676-6856.

### 6. Filing of Initial Complaint / Payment of Filing Fee / Service of Summons

Complaints shall be filed, fees paid, and summons issued and served in the traditional manner on paper rather than electronically (Local Rule 5.6).

## 7. Filing Documents Electronically

Electronic transmission of a document consistent with the procedures adopted by the Court shall, upon the complete receipt of the same by the Clerk of Court, constitute filing of the document for all purposes of the Federal Rules of Civil Procedure and the Local Rules of this Court, and shall constitute entry of that document onto the docket maintained by the Clerk pursuant to FED.R.CIV.P. 58 and 79.

A Notice of Electronic Filing (NEF) acknowledging that the document has been filed will immediately appear on the filer's screen after the document has been submitted. Attorneys are strongly encouraged to print or electronically save a copy of the NEF. Attorneys can also verify the filing of documents by inspecting the Court's electronic docket sheet through the use of a PACER login. The Court may, upon the motion of a party or upon its own motion, strike any inappropriately filed document.

Documents filed electronically must be submitted in PDF (Portable Document Format). Filing documents electronically does not alter filing deadlines. All electronic transmissions of documents must be completed (*i.e.* received completely by the Clerk's Office) prior to midnight of the local time of the division in which the case is pending in order to be considered timely filed that day (NOTE: time will be noted in Eastern Standard Time on the Court's docket. If you have filed a document prior to midnight local time of the division in which the case is pending and the document is due that date, but the electronic receipt and docket reflect the following calendar day, please contact the Court). Although parties can file documents electronically 24 hours a day, attorneys and parties are encouraged to file all documents during the normal working hours of the Clerk's Office (8:30 a.m. to 5:00 p.m.) when technical support is available.

#### 8. Civil Docket

Upon the filing of a document, a docket entry will be created using the information provided by the filing party. The Clerk of Court, where necessary and appropriate, will modify the docket entry description to comply with quality control standards.

## 9. System Availability

The Court's system is designed to provide service 24 hours a day, 7 days a week. Occasionally the CM/ECF system may be unavailable for brief scheduled maintenance. Notice of scheduled maintenance will be posted on the Court's website in advance. Attorneys are encouraged to file documents in advance of filing deadlines and during normal business hours. Questions regarding the electronic filing system and the registration process should be referred to the Electronic Case Filing Administrator, Wendy Carpentier, at (317) 229-3718. Technical difficulties should be referred to the Court's Help Desk, at (317) 229-3737. The Help Desk is staffed business days from 8:30 a.m. to 5:00 p.m.

## 10. Registration

Attorneys seeking to file electronically must be admitted to practice in the U.S. District Court for the Southern District of Indiana and be in good standing. Each attorney seeking to file documents electronically must also submit a completed Electronic Case Filing Attorney Registration Form (Appendix D). Regardless of the division in which the attorney most frequently practices, completed registration forms should be returned to:

Electronic Case Filing Administrator U.S. District Court 46 East Ohio Street, Room 105 Indianapolis, IN 46204

A registering attorney will receive an Internet e-mail message indicating his/her login and password have been assigned; this is to insure that the attorney's Internet e-mail address has been entered correctly in the ECF System. Use of the login and password when filing documents will serve in part as that party's signature for purposes of FED.R.CIV.P.11. Parties agree to protect the security of their passwords and immediately notify the Clerk of Court if they learn that their password has been compromised.

#### 11. Service of Electronically Filed Documents

By participating in the electronic filing process, the parties consent to the electronic service of all documents, and shall make available electronic mail addresses for service. Upon the filing of a document by a party, an e-mail message will be automatically generated by the electronic filing system and sent via electronic mail to the e-mail addresses of all registered parties who have appeared in the case. The Notice of Electronic Filing will contain a document hyperlink which will provide recipients with one "free look" at the electronically filed document. Recipients are encouraged to print and/or save a copy of the document during the "free look" to avoid incurring PACER charges for future viewings of the document. It is the responsibility of the filing attorney to conventionally serve all parties who do not receive electronic service (the identity of these parties will be indicated on the filing receipt generated by the ECF system). In addition to receiving e-mail notifications of filing activity, the parties are strongly encouraged to sign on to the PACER system at regular intervals to check the docket in their case.

A certificate of service must be included with all documents filed electronically. Such certificate shall indicate that service was accomplished pursuant to the Court's electronic filing procedures. The party effectuates service on all registered parties by filing electronically. Service by electronic mail shall constitute service pursuant to FED.R.CIV.P. 5(b)(2)(D) and shall entitle the party being served to the additional three (3) days provided by FED.R.CIV.P. 6(e).

The following is a suggested format for a certificate of service for electronic filing:

#### **Certificate of Service**

I hereby certify that on [date], a copy of the foregoing [name of document] was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

[List parties receiving service electronically with law firm name (if applicable) and **email** address]

Name of Receiving party LAW FIRM NAME Email address

I hereby certify that on [date] a copy of the foregoing [name of document] was mailed, by first-class U.S. Mail, postage prepaid and properly addressed to the following:

[List parties receiving conventional service with law firm name (if applicable) and **postal** address]

Name of Receiving party LAW FIRM NAME Postal Address City, State, ZIP Code

A distribution list must be included on each proposed order. Pursuant to Local Rule 5.12, if a party is represented by multiple attorneys from the same law firm, and one or more is a Filing User, notice of entry of an order or judgment in a case assigned to the Electronic Filing System will be transmitted only to the Filing User(s).

A current distribution/service list for a case, may be obtained through the "Mailings" feature located under the "Utilities" menu in the Electronic Case Filing system.

#### 12. Appearances

The filing of a Notice of Appearance shall act to establish the filing attorney as an attorney of record representing a designated party in a particular cause of action. As a result, it is necessary for each attorney to file a separate Notice of Appearance when entering an appearance in a case. A joint appearance on behalf of multiple attorneys may be filed electronically only if it is filed separately for each attorney, using his/her ECF login.

## 13. Format for Electronic Filings

Electronically filed documents must meet the requirements of FED. R. CIV. P. 10 (Form of Pleadings), Local Rule 5.1 (General Format of Papers Presented for Filing), and Local Rule 5.2 (Public Access to Certain Case Information), as if they had been submitted on paper. Documents filed electronically are also subject to any page limitations set forth by Court Order, by Local Rule 7.1 (Motion Practice), or Local Rule 56.1 (Summary Judgment Practice), as applicable.

A key objective of the electronic filing system is to ensure that as much of the case as possible is managed electronically. To facilitate electronic filing and retrieval, documents to be filed electronically are to be reasonably broken into their separate component parts. By way of example, most filings include a foundation document (*e.g.*, motion) and other supporting items (*e.g.*, exhibits, proposed orders, proposed amended pleadings). The foundation document as well as the supporting items are each separate components of the filing; supporting items must be filed as *attachments* to the foundation document. These exhibits or attachments should include only those excerpts of the referenced documents that are directly germane to the matter under consideration.

To facilitate document retrieval for users who are accessing the system with a dial-up connection, components may not exceed an electronic file size of **2 megabytes**. Local Rule 5.10]. To electronically file a document or attachment that exceeds 2MB, the document must first be broken down into two or more smaller files. For example, if Exhibit A is a 3MB PDF file, it must be divided into 2 equal parts prior to electronic filing. Each component part of the exhibit would be filed as an attachment to the main document and described appropriately as "Exhibit A (part 1 of 2)" and "Exhibit A (part 2 of 2)."

Proposed Orders must also be submitted as attachments to the foundation document and must be converted to PDF directly from a word-processing application, as opposed to scanning. The supporting items mentioned above should not be confused with memorandums or briefs in support of motions as outlined in Local Rule 7.1(a) or 56.1. These memorandums or briefs in support are to be filed as entirely separate documents pursuant to the appropriate rule. Additionally, no motion shall be embodied in the text of a response or reply brief/memorandum unless otherwise ordered by the Court.

All pleadings and other filings, including motions, briefs, and proposed orders should be converted to PDF format directly from a word processing program (e.g., Microsoft® Word or Corel WordPerfect®), rather than created from the scanned image of a paper document. An exhibit may be scanned into PDF format only if it does not already exist in electronic format. The filing attorney is responsible for reviewing all PDF documents for legibility before submitting them through the Court's Electronic Case Filing system. For technical guidance in creating PDF documents, please contact the CM/ECF Administrator at (317) 229-3718.

Where an individual component cannot be included in the electronic filing (*e.g.* the component cannot be practically converted to electronic format), the filer shall electronically file the prescribed Notice of Manual Filing in place of that component. A model form is provided as Appendix C.

Note: Sealed documents should not be filed electronically. See Section 18 and Local Rule 5.3.

The following example illustrates the application of this section:

An attorney seeks to file a motion with three exhibits (A, B, and C), and a proposed order. The motion is a text document that was created with a word processing application and after conversion to PDF has a file size of 5kb. Exhibit A is a scanned image of a one-page document that after conversion to PDF has a size of 200kb. Exhibit B is a 100-page deposition transcript that exists on diskette and after conversion to PDF it has a size of 1.7MB. Exhibit C represents an object that cannot be converted to digital format, such as a videotape. The proposed order is a text document that after conversion to PDF has a file size of 45kb.

In order to facilitate easy retrieval of any individual component, each document must be kept as a separate component (PDF file) rather than being merged together as one file. Each of the components should be filed electronically in one submission by filing the motion, and *attaching* the exhibits and proposed order to the motion, through the electronic filing system.

Exhibit C exists in a format that cannot be scanned and filed electronically. During the electronic submission, when exhibit C would normally be attached to the motion, it should instead be replaced by a Notice of Manual Filing clearly stating what the exhibit is and why it cannot be filed electronically. Exhibit C should then be filed and served as it would if a traditional paper filing system were being used. When exhibit C is presented to the Clerk for manual filing, it should be accompanied by a paper copy of the Notice of Manual Filing that was electronically filed in its place.

## 14. Signature Block

Use of the attorney's login and password when filing documents electronically serves in part as the attorney's signature for purposes of FED.R.CIV.P. 11, the local rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court. All documents filed electronically shall include a signature block and include the filing attorney's typewritten name, address, telephone number, facsimile number and e-mail address. In addition, the name of the filing attorney under whose ECF login the document is filed should be preceded by a "s/" and typed in the space where the attorney's handwritten signature would otherwise appear. Documents signed by an attorney, must be filed using that attorney's ECF log-in and password and may not be filed using a log-in and password belonging to another attorney.

s/ [Name of Filing Attorney]
Name of Filing Attorney
Law Firm Name
Address

Phone: (xxx) xxx-xxxx Fax: (xxx) xxx-xxxx E-mail: xxx@xxx.xxx

City, State, ZIP Code

Documents requiring signatures of more than one attorney shall be filed either by: (a) representing the consent of the other attorney(s) in the signature line where the other attorney's signature would otherwise appear; (b) identifying in the signature block the other attorneys whose signatures are required and by the submission of a Notice of Endorsement (see Appendix B) by the other attorneys no later than three business days after filing; (c) submitting a scanned document containing all necessary signatures; or (d) in any other manner approved by the Court.

#### 15. Manual Filings

Parties otherwise participating in the electronic filing system may be excused from filing a particular component electronically under certain limited circumstances, such as when the component cannot be reduced to an electronic format. Such components shall not be filed electronically, but instead shall be manually filed with the Clerk of Court and served upon the parties in accordance with the applicable Federal Rules of Civil Procedure and the Local Rules for filing and service of non-electronic documents.

Before making a manual filing of a component, the filing party shall first electronically file a Notice of Manual Filing. The filer shall initiate the electronic filing process as if filing the actual component but shall instead attach to the filing the Notice of Manual Filing setting forth the reason(s) why the component cannot be filed electronically. A party may seek to have a component excluded from electronic filing pursuant to applicable Federal and Local Rules (*e.g.* FED.R.CIV.P. 26(c)). A model form is provided as Appendix C.

#### 16. Technical Difficulties

Parties are encouraged to file documents electronically during normal business hours, in case a problem is encountered. In the event a technical failure occurs, and despite the best efforts of the filing party a document cannot be filed electronically, the party should print (if possible) a copy of the error message received. In addition, as soon as practically possible, the party should file a "Declaration that Party was Unable to File in a Timely Manner Due to Technical Difficulties."

If a party is unable to file electronically and, as a result, may miss a filing deadline, the party must contact the Electronic Case Filing Administrator at (317) 229-3718 to inform her of the difficulty (after hours, please leave a message). If a party misses a filing deadline due to an inability to file electronically, the party may submit the untimely filed document, accompanied by a declaration stating the reason(s) for missing the deadline. The document and declaration must be filed no later than 12:00 noon of the first day on which the Court is open for business following the original filing deadline. A model form is provided as Appendix A.

## 17. Retention of Originals of Documents Requiring Scanning

Originals of documents filed electronically which require scanning (*e.g.* documents that contain signatures, such as affidavits) must be retained by the filing party and made available, upon request, to the Court and other parties for a period of two years following the expiration of all time periods for appeals (Local Rule 5.14).

#### 18. Sealed Documents

The filing of documents under seal is governed by Local Rule 5.3, which permits such filings only when authorized by statute, Court rule, or Court Order. Sealed documents will not be filed electronically, but rather manually. The party filing a sealed document shall file electronically a Notice of Manual Filing. The courtroom deputy to the District or Magistrate Judge should be contacted for instructions when filing certain *ex parte* documents which could not be disclosed by the electronic Notice of Manual Filing.

#### 19. Additional Information

Additional information and training arrangements for electronic filing can be obtained by contacting the Electronic Case Filing Administrator at 317-229-3718, wendy\_carpentier@insd.uscourts.gov, or:

Electronic Case Filing Administrator United States District Court 46 East Ohio Street, Room 105 Indianapolis, IN 46204

## Appendix A

# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA

		)	
Plaintiff(s),		)	
		)	
VS.		)	Case No.
		)	
	<b></b> ;	)	
Defendant(s)		)	

#### Declaration that Party was Unable to File in a Timely Manner Due to Technical Difficulties

Please take notice that [Plaintiff/Defendant, Name of Party] was unable to file the attached [Title of Document] in a timely manner due to technical difficulties. The deadline for filing the [Title of Document] was [Filing Deadline Date]. The reason(s) that I was unable to file the [Title of Document] in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform (including dates and times)]

I declare under penalty of perjury that the foregoing is true and correct.

#### s/ [Name of Filing Attorney]

Name of Filing Attorney Law Firm Name Address City, State, ZIP Code

Phone: (xxx) xxx-xxxx Fax: (xxx) xxx-xxxx E-mail: xxx@xxx.xxx

## **Appendix B**

# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA

	,	)	
Plaintiff(s),		)	
		)	
VS.		)	Case No
		)	
	<b></b> ,	)	
Defendant(s)		)	

#### **Notice of Endorsement**

Please take notice that [Plaintiff/Defendant, Name of Party] electronically filed the following document on [Date of Filing]: [Title of Document]

[Plaintiff's/Defendant's] counsel now notifies the Court that [Plaintiff/Defendant, Name of Party] endorses the [Title of Document] filed by [Filing Party's Name] and would join in submitting said document for the Court's review.

#### s/ [Name of Filing Attorney]

Name of Filing Attorney Law Firm Name Address City, State, ZIP Code

Phone: (xxx) xxx-xxxx Fax: (xxx) xxx-xxxx E-mail: xxx@xxx.xxx

## **Appendix C**

# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA

	,	)	
Plaintiff(s),		)	
		)	
VS.		)	Case No
		)	
		)	
Defendant(s)		)	

### **Notice of Manual Filing**

Please take notice that [Plaintiff/Defendant, Name of Party] has manually filed the following document or thing: [Title of Document or Thing]

This document has not been filed electronically because [the document or thing cannot be converted to an electronic format/the document or thing is filed under seal pursuant to LR 5.3/ [Plaintiff/Defendant] is excused from filing this document or thing by Court Order.]

The document or thing has been manually served on all parties.

#### s/ [Name of Filing Attorney]

Name of Filing Attorney
Law Firm Name
Address
City, State, ZIP Code

Phone: (xxx) xxx-xxxx Fax: (xxx) xxx-xxxx E-mail: xxx@xxx.xxx

## **Appendix D**

## UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA

#### **ELECTRONIC CASE FILING**

**Attorney Registration Form** 

This form shall be used to register for an account on the Court's Electronic Case Filing (ECF) system. Registered attorneys will have privileges both to electronically submit documents, and to view and retrieve electronic docket sheets and documents for all cases assigned to the Electronic Case Filing system. The following information is required for registration:

First/Middle/Last Name
Attorney Bar ID # State
Firm Name
Firm Address
Voice Phone Number
FAX Phone Number
Primary E-Mail Address:
Secondary E-Mail Address:
Basis under which attorney is permitted to practice law in the U.S.D.C. for Southern Indiana (check one):
☐ Admitted in INSD ☐ Pro Hac Vice ☐ Government Attorney
If Pro Hac Vice or Gov't Attorney, indicate the cause number for which admission has been granted:
Cause Number

By submitting this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned also consents to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) via the Court's electronic filing system.

- 1. This system is for use only in cases permitted by the *U.S. District Court for the Southern District of Indiana*. It may be used to file and view electronic documents, docket sheets, and notices. Please contact Wendy Carpentier at (317) 229-3718, to schedule training.
- 2. Pursuant to Federal Rule of Civil Procedure 11, every pleading, motion, and other paper (except lists, schedules, statements or amendments thereto) shall be signed by at least one attorney of record or, if the party is not represented by an attorney, all papers shall be signed by the party. An attorney's ECF login and password issued by the court, serves in part as the attorney's signature, per Local Rule 5.11. Therefore, an attorney must protect and secure the password issued by the court. If there is any reason to suspect the password has been compromised in any way, it is the duty and responsibility of the attorney to immediately notify the court. The Court will immediately delete that password from the electronic filing system and issue a new password.
- 3. An attorney's registration will not waive conventional service of a summons and complaint, subpoena, or other judicial process; submit the client to the jurisdiction of the Court; or operate as a consent to accept service of pleadings, documents, and orders in actions in which such attorney has not entered an appearance. An attorney's registration will constitute a waiver in law only of conventional service of other non-process pleadings, documents, and orders in the case. The attorney agrees to accept, on behalf of the client, service of notice of the electronic filing by hand, facsimile or authorized e-mail.
- 4. Attorneys must be active members of the bar of this Court to file pleadings electronically.

Please return this form with <u>original</u> signature to:	U.S. District Court, Southern District of Indiana Attn: CM/ECF Administrator 46 East Ohio Street Indianapolis, IN 46204

First Initial of Full Last Name 4 Digit Number (last 4 digits of SSN is suggested)
First Name

Attorney's Signature